

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL ACTION NO. _____**

**HMBC, INC. d/b/a AMERICAN
RESTORATION,**

Plaintiff,

v.

**STATE FARM FIRE AND CASUALTY
COMPANY, STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY and
WARREN DOUGLAS HARVEY, its agent and
Employee,**

Defendants.

NOTICE OF REMOVAL

NOW COMES the Defendant, Warren Douglas Harvey (hereinafter “Defendant Harvey”) by and through his undersigned attorney of record and pursuant to the provisions of 28 U.S.C. §§ 1332 and 1446, and hereby provides its Notice of Removal to this Court from the General Court of Justice, Superior Court of Columbus County, North Carolina based on diversity of citizenship and amount in controversy. In support of such removal, Defendant Harvey respectfully states the following:

1. On January 21, 2021, the plaintiff commenced a proceeding against Defendants by filing of a Civil Summons and Complaint, styled *HMBC, Inc. d/b/a American Restoration v. State Farm Fire and Casualty Company, State Farm Mutual Automobile Insurance Company, and Warren Douglas Harvey*, Cleveland County Case No. 21 CvS 95, which proceeding is currently pending. A copy of the documents Plaintiff served on Defendants are attached hereto as Exhibit 1.

2. State Farm was served with a copy of the complaint setting forth the plaintiff's claims upon which this action is based when it was served through the North Carolina Department of Insurance on February 1, 2021.

3. Defendant Harvey was served with a copy of the complaint setting forth the plaintiff's claims upon which this action is based when it was served by certified mail on February 10, 2021.

4. This case is a civil action within the meaning of the Acts of Congress relating to the removal of causes. Defendants have not filed any pleadings or papers in this action in State Court and the time during which Defendants are required by state law or rules of court to answer or to plead to the plaintiff's complaint has not expired. No other process, pleading or order has been served on Defendants.

5. This civil action arises out of claims by the plaintiff for breach of contract, breach of the covenant of good faith and fair dealing and unfair and deceptive trade practice. The complaint seeks compensatory damages, treble damages, attorney's fees and costs.

6. This action is removable because there is diversity of citizenship and the requisite amount in controversy as required by 28 U.S.C. §1332. Plaintiff, according to the complaint, is a North Carolina corporation. State Farm is a foreign corporation organized and existing under the laws of the State of Illinois, and has its principal place of business in Bloomington, Illinois. Defendant Harvey is a resident of the State of Illinois. Accordingly, complete diversity exists between these parties in this case.

7. The United States District Court also has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332, because there is a diversity of citizenship among the necessary and properly named parties and, upon information and belief based upon the amount

owed on the alleged contract at issue and the claims asserted by Plaintiff, including the claim for trebled damages, the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00. This action is therefore removable to this Court pursuant to 28 U.S.C. §1441(b).

8. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b) and Rule 81 of the Federal Rules of Civil Procedure because it is filed within thirty (30) days after service on Defendant Harvey, of a copy of the initial pleading setting forth the claim for relief upon which this action or proceeding is based. Defendants State Farm Fire and Casualty Company and State Farm Mutual Automobile Company consent to removal per 28 U.S.C. § 1446(b)(2)(A).

9. By filing this Notice of Removal, Defendant Harvey does not waive any of his objections to personal jurisdiction, service, or other affirmative defenses.

10. Pursuant to 28 U.S.C. §1446(d), Defendant Harvey will file a Notice of Filing this Notice of Removal, with a copy of this Notice of Removal, with the State Court and thereby will notify the Clerk of the General Court of Justice, Superior Court Division, Cleveland County, North Carolina of the removal.

11. A copy of the Notice of Filing of Notice of Removal to be filed in the General Court of Justice, Superior Court Division, is attached hereto as Exhibit 2. Defendant Harvey has served a copy of the Notice of Removal on the Plaintiff in accordance with 28 U.S.C. §1446(d).

WHEREFORE, this action is hereby removed to this Court from the General Court of Justice, Superior Court Division, Cleveland County, North Carolina.

This the 12th day of March, 2021.

/s/ SCOTT LEWIS
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CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2021 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and I hereby certify that I have mailed the document to the following:

Ralph W. Meekins
Teddy, Meekins & Talbert, PLLC
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Counsel for Plaintiff

Respectfully submitted,

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